

ORIGINAL

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VINCENZO MAZZAMUTO, : Case No. 1:01-CV-1157  
Plaintiff :

FILED  
HARRISBURG, PA

UNUM PROVIDENT  
CORPORATION, PAUL  
REVERE LIFE INSURANCE  
COMPANY and NEW YORK  
LIFE INSURANCE COMPANY,

# JUDGE KANE

AUG 09 2002

MARY E. D'ANDREA, CLERK  
Per                     

## Defendants

Pursuant to Rule 56 of the Federal Rules of Civil Procedure, defendants UNUMProvident Corporation, The Paul Revere Life Insurance Company and New York Life Insurance Company hereby move for summary judgment against all claims asserted by plaintiff.

Defendants are entitled to summary judgment because the undisputed facts demonstrate that (a) plaintiff is unable to produce sufficient evidence to establish a prima facie claim of breach of contract in connection with his claim for disability benefits; and (b) Paul Revere acted reasonably and, as a matter of law, plaintiff cannot prove, by clear and convincing evidence, that Paul Revere engaged in bad faith in its handling of his claim.

Finally, even if the Court does not dismiss the case in its entirety, plaintiff's bad faith claim against UNUMProvident and New York Life should be dismissed because neither acted as an insurer with respect to the claim in question.

WHEREFORE, for the reasons set forth above and more fully discussed in the accompanying memorandum of law which is incorporated herein in its entirety, Defendants respectfully request the Court to grant their motion for summary judgment.

Dated: 8 | 9 | 02

STEVENS & LEE

By E. Thomas Henefer

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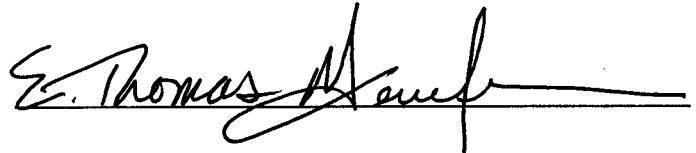
Reading, Pennsylvania 19603

(610) 478-2000

Attorneys for Defendants

CERTIFICATE OF NON-CONCURRENCE

I, E. THOMAS HENEFER, ESQUIRE, certify that opposing counsel does  
not concur in the foregoing motion for summary judgment

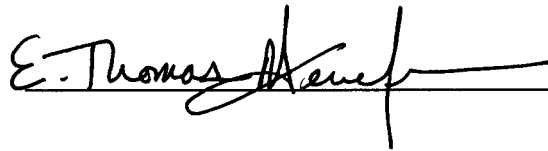
A handwritten signature in black ink, appearing to read "E. Thomas Henef", written over a horizontal line.

Date: 8/9/02

CERTIFICATE OF SERVICE

I, E. THOMAS HENEFER, ESQUIRE, certify that on this date, I served a certified true and correct copy of the foregoing Defendant's Motion for Summary Judgment upon the following counsel of record, by hand delivery as follows:

Richard C. Angino, Esquire  
Angino & Rovner, P.C.  
4503 N. Front Street  
Harrisburg, PA 17110

A handwritten signature in black ink, appearing to read "E. Thomas Henef", is written over a horizontal line.

Date: 8/9/02